

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-60727

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

v.

HOSEA BLACKSTON,

Defendant–Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi

O R D E R:

Hosea Blackston, federal prisoner # 14171-003, moves for a certificate of appealability (COA) to appeal the denial of his 28 U.S.C. § 2255 motion challenging his conviction and sentence for possession of methamphetamine with intent to distribute. He also moves for leave to proceed on appeal in forma pauperis (IFP) and to present evidence in the form of an affidavit. Blackston asserts that the trial court committed sentencing error, that his trial counsel provided ineffective assistance, and that his sentence-error claims are not barred by the collateral-review waiver in his plea agreement.

To obtain a COA, Blackston must make “a substantial showing of the denial of a constitutional right” by “show[ing] that reasonable jurists could debate whether (or, for that matter, agree that) the [motion] should have been resolved in a different manner or that the issues presented were adequate to

deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (cleaned up); 28 U.S.C. § 2253(c)(1)-(2). To the extent the district court dismissed Blackston’s claims for lack of merit, he must show that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Id.*

Blackston fails to make the required showing. Accordingly, IT IS ORDERED that the motion for a COA is DENIED. The motion to proceed IFP on appeal is DENIED AS MOOT. And the motion to present evidence is DENIED. *See Theriot v. Par. of Jefferson*, 185 F.3d 477, 491 n.26 (5th Cir. 1999).



A True Copy
Certified order issued Jul 26, 2018

Jyle W. Cayce

Clerk, U.S. Court of Appeals, Fifth Circuit

Don R. Willett

DON R. WILLETT
UNITED STATES CIRCUIT JUDGE